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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

REPUBLIC OF TAJIKISTAN

**DRAFT CONSTITUTION OF THE
REPUBLIC OF TAJIKISTAN**

DRAFT CONSTITUTION OF THE REPUBLIC OF TAJIKISTAN

PREAMBLE

We, the people of Tajikistan, as an inseparable part of the world community,

- holding ourselves responsible and duty bound to past, present and future generations;
- aiming to ensure the sovereignty and development of our state;
- recognizing the rights and freedoms of the individual as sacred;
- affirming the equality of rights and friendship of all nations and nationalities living in Tajikistan;
- seeking to build a just society, adopt and proclaim this Constitution.

CHAPTER ONE

FUNDAMENTALS OF THE CONSTITUTIONAL STRUCTURE

ARTICLE 1. Tajikistan is a sovereign, democratic, law-governed, secular, and unitary republic. The names Republic of Tajikistan and Tajikistan are of equal validity.

ARTICLE 2. The state language of Tajikistan is Tajik-Farsi. All nationalities and peoples living on the territory of the republic are entitled to freely use of their mother tongue. The procedure for the use of languages is defined by law.

ARTICLE 3. The state symbols of Tajikistan are the flag, emblem and the national anthem.

ARTICLE 4. The capital of Tajikistan is the city of Dushanbe.

ARTICLE 5. The rights and freedoms of the individual are sacred. The recognition, observance and protection of human and civil rights and freedoms shall be the obligation of the state.

ARTICLE 6. In Tajikistan the people are the expression of sovereignty and the sole source of state power, which will exercise them directly or through their representatives in the framework of the Constitution.

No social association, group of people or individual shall have the right to seize state power. The seizure of state power is the gravest crime.

Only the president and the Majlisi-Milli (National Assembly) shall have the right to speak on behalf of all the people of Tajikistan.

ARTICLE 7. The territory of Tajikistan is indivisible and inviolable. Encouragement of separatism which violates the unity of the state is prohibited.

The state shall ensure the sovereignty, independence and territorial integrity of Tajikistan.

ARTICLE 8. In Tajikistan public life shall develop on the basis of political and ideological diversity.

No ideology, including religious ideology, shall be granted the status of state ideology.

Social associations may be established and may function within the framework of the Constitution and the law. The state shall provide equal opportunities for their activities.

Religious organizations shall be separated from the state and shall not interfere with the state affairs.

The establishment and functioning of social associations which encourage racism, nationalism, social and religious enmity and hatred, and advocate the forcible overthrow of the constitutional structure and the formation of armed groups is prohibited.

ARTICLE 9. State power shall be exercised on the basis of the separation of legislative, executive and judicial powers.

ARTICLE 10. The Constitution of Tajikistan has supreme legal authority and its norms are direct-acting. Laws and other legal acts which run counter to the Constitution shall have no legal validity.

The state and all its bodies, officials, citizens, and their associations are duty bound to observe and implement the Constitution and laws of the republic.

International legal documents recognized by Tajikistan are a constituent part of the republic's legal system. If the republic's laws do not conform with recognized international legal documents, the norms of the international documents shall apply.

International laws and documents recognized by Tajikistan shall apply the following official publication.

ARTICLE 11. Tajikistan shall implement a peaceful policy, respecting the sovereignty and independence of other states of the world, and will determine foreign relations on the basis of international norms.

Proceeding from the supreme interests of the people, Tajikistan may join or withdraw from international associations and organizations and establish relations with foreign countries.

The state shall cooperate with compatriots living abroad.

ARTICLE 12. The state shall protect the family as the basis of society.

ARTICLE 13. The economy of Tajikistan shall be based on various forms of ownership.

The state shall guarantee freedom of economic activity, entrepreneurship, equality of rights, and protection of all forms of ownership, including private ownership.

Exceptional ownership of the state is specified by law.

ARTICLE 14. The state shall guarantee the use of land, other natural resources and the environment in the interests of people of Tajikistan.

CHAPTER TWO

RIGHTS, FREEDOMS, RESPONSIBILITIES OF A PERSON AND A CITIZEN

ARTICLE 15. Each person and his natural rights - life, honour, dignity and freedom are inviolable.

The rights and freedoms of the individual are guaranteed, regulated and protected by the Constitution and laws, international legal documents recognized by Tajikistan.

The Constitution and laws admit limitations of rights and freedoms only with the purpose of providing rights and freedoms of other citizens, social order, protection of the constitutional structure and territorial integrity of the republic.

ARTICLE 16. A person is considered to be a citizen of Tajikistan who on the day of the adoption of this Constitution is a citizen of the Republic of Tajikistan.

Membership of the citizens of Tajikistan to the citizenship of another state is not recognized, except in cases stipulated by law and intergovernmental agreements of Tajikistan.

The procedure for getting and losing citizenship is defined by law.

ARTICLE 17. A citizen of Tajikistan outside the country should be protected by the state. No citizen of the republic shall be extradited to a foreign state. The extradition of a criminal to a foreign state shall be resolved on the basis of mutual agreement.

Foreign citizens and stateless persons shall have the same rights, freedoms, responsibilities and duties as a citizen of Tajikistan, except in cases stipulated by law.

Tajikistan shall offer political asylum to foreign citizens whose human rights are violated.

ARTICLE 18. All shall be equal before the law and the courts. The state shall guarantee the rights and freedoms of every person regardless of nationality, race, sex, language, religious beliefs, political stance, social status, knowledge or property.

ARTICLE 19. Each person shall have the right to life. No one may be deprived of life except by order of a court for the gravest crime.

ARTICLE 20. The state shall protect the freedom, inviolability, and dignity of the individual. No one may be subjected to torture, cruelty, or any other inhumane treatment. It is forbidden to subject a person to forced medical or scientific experiments.

ARTICLE 21. Each person is guaranteed judicial protection. Each person is entitled to demand that his case be considered by a competent and impartial court.

No one may be arrested, kept in custody, or exiled without a legal reason. Each person is entitled to legal assistance from the moment of his arrest and to complain to a court on the basis of law.

ARTICLE 22. No one shall be judged guilty of a crime except by sentence of a court in accordance with the law.

No one may be tried twice for a crime.

A law adopted after an illegal act has been committed by a person and which envisages severe punishment shall not have retrospective effect. If after an illegal act has been committed a law is passed which envisages either no punishment or a light punishment, the new law shall apply.

Total confiscation of the property of a convicted person is prohibited.

ARTICLE 23. The law shall safeguard the rights of the victim. The state shall guarantee judicial protection and compensation to the victim.

ARTICLE 24. A person's home shall be inviolable. It is forbidden to forcibly enter the home of a person except in cases prescribed by law.

No one may be deliberately deprived of a home.

ARTICLE 25. Secrecy of private correspondence, telephone conversations, and the postal and communication rights of each person shall be ensured, except in cases prescribed by the law.

ARTICLE 26. Each citizen has the right to travel, freely choose his place of residence, to leave the republic, or to return to it.

ARTICLE 27. Each person shall have the right to form a family. Men and women who have reached a marriageable age shall have the right to freely marry without any hindrance. Husband and wife shall have equal rights in marriage and in divorce.

ARTICLE 28. Mother and child are entitled to special care and protection by the state.

Parents shall be responsible for the upbringing of their children, and adult children of working age shall be responsible for providing assistance and taking care of their parents.

The state shall be responsible for the protection, upbringing, and education of orphan children.

ARTICLE 29. The collection, storage, utilization, or dissemination of information about a person's private life without his consent are forbidden.

ARTICLE 30. State bodies, social associations and officials shall be obliged to ensure that each person has the opportunity to seek and see documents affecting his rights and interests, except in cases prescribed by the law.

ARTICLE 31. Each person has the right to freely determine his position toward religion, to profess any religion individually or together with others, or not to profess any, and to take part in religious customs and ceremonies.

ARTICLE 32. Each citizen has the right to take part in political life and state administration directly or via their representatives.

Citizens have equal rights to state service.

Each citizen has the right to elect or be elected from the age of 18 years. A citizen can be elected to Majlisi Nili when he reaches the age of 25.

Citizens deemed incompetent by a court or who are deprived of liberty in accordance with a court sentence do not have the right to take part in elections and referendums.

Elections and referendums are held on the basis of universal, equal and direct suffrage in a secret ballot.

ARTICLE 33. The formation of social associations, joining and leaving them by citizens is voluntary.

ARTICLE 34. Citizens have the right to take part peacefully without weapons in meetings, rallies, demonstrations and processions. No one can be forced to take part in the above-mentioned activities.

ARTICLE 35. Each person is guaranteed freedom of speech, publication and the right to utilize means of information. State censorship and prosecution for criticism is prohibited. The list of information constituting a state secret is specified by law.

ARTICLE 36. Each person has the right to ownership and inheritance.

No one is permitted to suspend and limit an individual's right to ownership. The property of an individual is only taken away on the basis of law and the consent of the owner for the requirement of the state and society by paying full compensation.

Any material and spiritual damage inflicted on an individual as a result of illegal actions by state bodies, social associations or individuals will be compensated in accordance with law.

ARTICLE 37. Each person has the right to work, to choose his profession or work, and to protection of labour. Wages for labour cannot be less than the minimum wage.

Any limitation is prohibited in labour relations. Equal wages shall be paid for the same work.

Forced labour is not permitted, except in cases defined by law. Using women and child labour is prohibited in heavy and underground work and in harmful conditions.

ARTICLE 38. Each person has the right to entrepreneurial activities and is allowed to utilize paid labour in accordance with the law.

ARTICLE 39. Each person has the right to housing. This right is ensured by means of construction of state, public, cooperative and private housing.

ARTICLE 40. Citizens have the right to leisure. These rights are ensured by establishing working days and weeks, paid annual holidays, weekly days off and other conditions prescribed by law.

ARTICLE 41. Each person has the right to health care. This right is ensured by providing free medical assistance in state medical establishments and by measures aimed at protecting the environment. Other forms of medical assistance are defined by law.

ARTICLE 42. Each person is guaranteed social security in old age, in the event of sickness and disability, loss of ability to work, loss of a guardian, or other instances prescribed by the law.

ARTICLE 43. Each person has the right to participate freely in his society's culture, arts, and in scientific and technical creation and to utilize their achievements.

The state protects cultural and spiritual riches.
Intellectual property is protected by law.

ARTICLE 44. Each person has the right to education. The state guarantees access to free general education.
Other forms of acquiring education is defined by law.

ARTICLE 45. On the territory of Tajikistan each person is obliged to observe the Constitution and the laws and to recognize the rights, freedoms, dignity, and honour of others.
Ignorance of the law is no defence.

ARTICLE 46. Protecting the homeland; safeguarding the interests of the state; and strengthening its independence, security, and defence capabilities are the sacred duties of citizens.
The procedure for military service is specified by law.

ARTICLE 47. The protection of the environment, land and other natural resources; and the historical and cultural heritage and their efficient utilization are the duties of each person.

ARTICLE 48. Each person is obliged to pay taxes and duties specified by law. Laws introducing new taxes or aggravating the economic situation of the tax payer cannot be retroactive.

CHAPTER THREE

MAJLISI MILLI (THE NATIONAL ASSEMBLY)

ARTICLE 49. Majlisi Milli is the highest representative and legislative body of the Republic of Tajikistan.

Majlisi Milli is elected for a five-year term.
The establishment and activity of Majlisi Milli is specified by law.

ARTICLE 50. The powers of Majlisi Milli:

1. The enactment and amendment of laws and orders and their annulment;
2. Interpretation of the Constitution and laws;
3. Determination of the basic directions of the home and foreign policy of the republic;
4. Establishment of the Central Election and Referendum Commission;
5. Specifying the referendum;
6. Specifying the date for election of the president;
7. Specifying the date for election of higher and local representative bodies;
8. Approving the establishment and abolition of ministries and state committees;

9. Ratification of the decrees of the president on appointment and dismissal of the prime ministers, first deputy prime ministers and deputy prime ministers, ministers, and chairmen of the state committees;

10. Election and removal of chairman, deputy chairman, and judges of the Constitutional Court; chairman, deputy chairmen, and judges of the Supreme Court; procurator general of the republic and his deputies; and chairman and deputy chairmen of the national bank at the proposal of the president;

11. Ratification of the socio-economic programs and the state budget; approval of loans and economic assistance to other states; determining the possible amount of the state budget deficit and the sources of compensating it; determining the taxation policy;

12. Specifying the monetary system;

13. Specifying or changing the structure and establishment of border administrative units and changing them;

14. Ratification and annulment of international treaties;

15. Establishment of courts;

16. Ratification of the decrees of the president on the state of war, peace, and state of emergency;

17. Establishing state awards;

18. Establishing military and diplomatic ranks and special titles;

19. Approval of state symbols;

20. Approval of the seal of the state;

21. Declaration of general amnesty;

22. Implementation of other duties prescribed by law.

ARTICLE 51. The basic form of the activity of Majlisi Mili is the session.

The first session of Majlisi Mili is convened one month after the election of people deputies by the Central Election and Referendum Commission.

A session of the Majlisi Mili convenes only when attended by at least two-thirds of the people's deputies.

ARTICLE 52. For the purpose of organizing the work of Majlisi Mili and the implementation of the powers stipulated by the Constitution and the laws, the Presidium of Majlisi Mili under the leadership of the chairman of Majlisi Mili will be established.

Composition of the Presidium of Majlisi Mili include chairman of Majlisi Mili, first deputy chairman, deputy chairmen, and chairmen of the committees and standing commissions of Majlisi Mili.

Majlisi Mili can elect other people's deputies as members of the Presidium of Majlisi Mili.

ARTICLE 53. Authority of the Presidium of Majlisi Mili:

1. To convene Majlisi Mili;

2. To prepare for the sessions of Majlisi Mili;

3. To coordinate the work of the committees and standing commissions of Majlisi Mili;

4. To propose for public discussion drafts laws and other important state and public issues;
5. To organize inter-parliamentary relations;
6. To oversee the activities of publications of Majlisi Mili and to appoint or dismiss editors-in-chief of the publications;
7. To approve the appointment or recall of the heads of diplomatic missions of Tajikistan in foreign countries and republican missions at international organizations;
8. To implement other powers stipulated by the Constitution and other laws.

The Presidium of Majlisi Mili adopts decisions.

ARTICLE 54. Majlisi Mili elects from among the people's deputies chairman of Majlisi Mili, first deputy chairman, deputy chairmen, and chairmen of the committees and standing committees of Majlisi Mili. One of the deputy chairmen of Majlisi Mili will be a people's deputy representing the Gorno-Badakhshan Autonomous Oblast.

The chairman of Majlisi Mili will be elected by secret ballot by a majority of the total number of people's deputies.

ARTICLE 55. Authority of the chairman of Majlisi Mili:

1. To exercise general leadership and direction over issues which will be discussed at sessions of Majlisi Mili;
2. To preside at sessions and the Presidium of Majlisi Mili;
3. To nominate the first deputy chairman, deputy chairmen, and chairmen of the committees and standing commissions of Majlisi Mili;
4. To sign the decisions of Majlisi Mili and its Presidium;
5. To represent Majlisi Mili in the country and abroad;
6. To sign inter-parliamentary agreements;
7. To direct the apparatus of Majlisi Mili and to give orders;
8. To implement other powers stipulated in the Constitution and laws.

ARTICLE 56. The first deputy chairman and chairmen of Majlisi Mili will carry out the chairman's duties at the chairman's authorization. In the absence of the chairman, the first deputy chairman carries out his duties.

ARTICLE 57. Majlisi Mili will elect, from the people's deputies, members of committees and standing commissions tasked with preparing draft laws, implementing supervisory duties and preparing issues for discussions.

Majlisi Mili, if necessary, will establish auditing and investigation commissions and other temporary commissions.

ARTICLE 58. A people's deputy has the right to ask for information from any official needed to carry out his duties.

A people's deputy can express his opinions freely and vote according to his beliefs.

ARTICLE 59. A people's deputy who is working for the Supreme Council permanently cannot hold any other post, except for scientific and creative activities, and cannot engage in

entrepreneurial activities.

A citizen of Tajikistan cannot hold two representative positions of authority simultaneously.

ARTICLE 60. A people's deputy has the right of immunity. He cannot be taken into custody, arrested or receive a court-imposed penalty without the sanction of Majlisi Mili. A people's deputy cannot be arrested with the exception of arrest while committing a crime.

The authority of a people's deputy will terminate at his resignation, when a court proclaims him incapable, or by a valid decision of Majlisi Mili.

The legal status of a people's deputy is defined by law.

ARTICLE 61. The people's deputies, the president, government, and the Council of People's Deputies of the Gorno-Badakhshan Autonomous Oblast have the right to legislate.

ARTICLE 62. The laws of Tajikistan and the decisions of Majlisi Mili are adopted by the majority of vote of the total number of people's deputies.

Laws whose adoption is envisaged in the Constitution will be adopted with at least two-thirds votes of the total number of the people's deputies voting in favor.

ARTICLE 63. The laws of Tajikistan are presented to the president for consent. If the president does not agree with the law he should return it within 15 days to Majlisi Mili with his objections. If Majlisi Mili once again approves the law with at least a two-thirds majority of people's deputies, the president will sign it. If the president does not return the law within the prescribed period he is duty bound to sign it.

The laws of Tajikistan and the decisions of Majlisi Mili are to be adopted in the state language and will be published in official publications.

ARTICLE 64. Majlisi Mili can be voluntarily suspended before its term ends by a vote of at least two-thirds of the people's deputies. In any case the authority of the people's deputies of Tajikistan terminates on the first day of the session of new Majlisi Mili.

CHAPTER FOUR

THE PRESIDENT OF THE REPUBLIC

ARTICLE 65. The president is the head of the state and the executive authority (the government).

The government of the republic consists of the prime minister, first deputy and deputy prime ministers, ministers, chairmen of the state committees.

The president is the protector of the Constitution and laws and the rights and freedoms of the citizens and the guarantor of the national independence, unity and territorial integrity, stability and continuity of the state; he ensures the functioning of the bodies of state power and the observance of the international treaties of Tajikistan.

ARTICLE 66. The president is elected by the citizens of Tajikistan on the basis of universal, direct and equal suffrage in a secret ballot for a five-year term.

Any citizen aged between 35 and 65 who knows the state language and has lived on the territory of Tajikistan at least for the past 10 years can be nominated to the post of the president.

Only a person whose nomination is signed by at least 5 percent of the electorate shall be eligible for candidacy to the post of president. A person may not be elected to the office of president for more than two consecutive terms.

ARTICLE 67. The election of the president is only deemed valid if more than half of the electorate takes part in it.

A candidate who wins the votes of more than half of the voters taking part in the election shall be the president.

The procedure for the election of the president is specified by law.

ARTICLE 68. Before assuming office the president takes the following oath in Majlisi Mili:

"As president, I do solemnly swear to comply with the Constitution and the laws of the republic; to guarantee the rights, freedoms and dignity of the citizens; to protect the territory and the political, economic and cultural independence of Tajikistan; to serve the nations sincerely".

The authority of the president terminates with the swearing-in of the new president.

ARTICLE 69. The president cannot take any other job. He cannot serve as a deputy of a representative nor engage in entrepreneurial activity.

The salary of the president is fixed by Majlisi Mili.

ARTICLE 70. The powers of the president of the republic:

1. To represent Tajikistan internally and in international relations;
2. To establish or abolish ministries and state committees with the approval of Majlisi Mili;
3. To appoint and dismiss the prime minister, first deputy deputy prime ministers, chairman of the state committees and to propose them for approval to Majlisi Mili;
4. To form the executive apparatus of the presidency;
5. To appoint and dismiss the Mirs of oblasts, towns and rayons and propose them for approval to the local Majlis;

6. To nominate the chairman and judges of the constitutional court; chairman, deputy chairman and judges of the supreme court; chairman, deputy chairman and judges of the supreme economic court; the procurator general and his deputies; the president of the National Bank and his deputies and propose them for appointment and recall to Majlisi Mili;

7. To appoint and dismiss the judges of the courts of the Gorno-Badakhshan Autonomous Oblast, oblasts, towns and rayons at the proposal of the justice minister with the exception of judges of the towns and rayons of the Gorno-Badakhshan Autonomous Oblast;

8. To propose socioeconomic programs and the state budget to Majlisi Mili for approval. To resolve the issues of state loans and economic assistance to other states with the approval of Majlisi Mili and to propose to Majlisi Mili the issue of the possible amount of state budget deficit and the source of compensating it;

9. To make proposals to Majlisi Mili to determine the monetary system;

10. To sign the laws;

11. To annul or suspend documents of state administration when they contradict the Constitution and laws;

12. To implement foreign policy and to sign international treaties and propose them for approval of Majlisi Mili;

13. To appoint with the approval of the Presidium of Majlisi Mili the heads of diplomatic missions in foreign countries and representatives of the republic in international organizations;

14. To accept the credentials of foreign diplomatic missions in Tajikistan;

15. To be the supreme commander of the armed forces of Tajikistan; to appoint and dismiss chief commanders of the armed forces of Tajikistan;

16. In the event of real danger threatening the security of the state the president declares a state of war and immediately proposes the decree to Majlisi Mili for approval;

17. To declare a state of emergency throughout the republic or in separate parts of it and propose it to Majlisi Mili immediately;

18. To establish and lead the security Council;

19. To offer political asylum;

20. To resolve the issues of confirming or depriving of citizenship;

21. To issue pardons;

22. To award special higher military ranks, diplomatic ranks and professional ranks and titles;

23. To award state prizes, medals and honourable titles of Tajikistan to the citizens;

24. To implement other powers prescribed in the Constitution and laws;

ARTICLE 71. The president adopts orders and edicts within the framework of his authority, informs Majlisi Mili about the country's situation and submits those issues, which he regards necessary and important to Majlisi Mili for discussion.

ARTICLE 72. In the event of the president's death, resignation, removal from office or inability to perform the duties of the president, the duties of the president will be assumed by the chairman of Majlisi Mili until new presidential elections. Presidential elections will be held within three months in the above-mentioned circumstances.

Issues surrounding the resignation or inability to perform the duties of the president will be resolved by the majority of people's deputies at a session of Majlisi Mili.

ARTICLE 73. The president enjoys immunity.

If the president breaks the oath or commits a crime, he can be removed from office by Majlisi Mili, taking into account the conclusion of the Constitutional Court by the support of at least two-thirds of people's deputies.

A charge of breaking the oath or committing a crime against the president can be put forward by at least one-third of people's deputies. In such circumstances the duties of the chairman of the special session of Majlisi Mili will be assumed by the chairman of the Supreme Court. The people's deputies will take an oath that they will act with a clear conscience and within the framework of law and justice during the discussion of this issue.

The investigation will be continued after the removal of the president from office; he will receive a copy of the accusation; and the criminal case will be sent to the court.

CHAPTER FIVE

T H E G O V E R N M E N T

ARTICLE 74. The composition of the government will be formed by the president and submitted for approval to Majlisi Mili.

Members of government cannot perform any other duties, be the deputies of representative authorities, or engage in entrepreneurship.

The government ensures the effective leadership of economic, social and cultural spheres and implementation of laws and decrees of Majlisi Mili and orders and decrees of the president of Tajikistan.

ARTICLE 75. The government issues orders and decrees in accordance with the laws of the republic, the implementation of which is necessary in the territory of Tajikistan.

The government places its authorities before the newly elected president.

The law determines the structure, activity and authority of the government.

CHAPTER SIX
T H E L O C A L A U T H O R I T Y

ARTICLE 76. Tajikistan consists of Gorno-Badakhshan Autonomous Oblast, oblasts, towns, rayons, settlements and villages.

The law regulates the structure of border and administrative units and the legal situation of Gorno Badakhshan Autonomous Oblast.

ARTICLE 77. The local authority consists of representative and executive authorities and functions within the framework of its authorities. They will ensure the implementation of the Constitution, and implementation of laws and decrees of Majlisi Mili and the president.

ARTICLE 78. The local representative power is Majlis (Assembly). The population elects the deputies of Majlis for a term of five years.

The mir governs the local executive power.

The mir also governs the representative and executive authorities in the border and administrative units.

The local Majlis will approve the decree of the president on appointing the mir of Gorno Badakhshan Autonomous Oblast, oblasts, towns and rayons.

The local Majlis will elect the mir of a settlement and village by a recommendation of the above authorities.

The mir is responsible to the local Majlis and cannot take any actions that are against the Constitution and laws.

The law regulates the structure, authorities and the activity of the local power.

ARTICLE 79. The representative authority and mir would adopt the legal documents within the framework of their authority, the implementation of which is necessary in that territory.

If the documents do not conform to the Constitution and laws, the documents of the representative authorities and mir would be revoked by the above authorities or the court.

ARTICLE 80. Majlisi Mili can dissolve the local Majlis and hold new elections if the local Majlis does not fulfil the demands of the Constitution and laws.

CHAPTER SEVEN
T H E C O U R T

ARTICLE 81. The judicial power is independent and protects rights and freedoms of a person, the interests of the state,

organizations and establishments, law and justice.

The court's justice is implemented by the Constitutional Court, Supreme Court, Supreme Economic Court, Court of the Gorno Badakhshan Autonomous Oblast, courts of oblast, city of Dushanbe, towns and rayons.

The creation of emergency courts is not permitted.

ARTICLE 82. Citizens who have reached the age of 25 and are no older than 60 and have at least five years' experience in the legal profession may be elected as judges of the Supreme Court, Supreme Economic Court, courts of oblasts, and the city of Dushanbe.

Citizens who have reached the age of 25 and are no older than 60 and have at least three years' experience in the legal profession can be elected town and rayon judges.

ARTICLE 83. The judges of Court of the Gorno Badakhshan Autonomous Oblast, courts of oblasts, the city of Dushanbe, courts of towns and rayons are appointed and dismissed by the president of the republic by the consent of the Minister of Justice.

The judges of courts of towns, rayons of the Gorno Badakhshan Autonomous Oblast are appointed and dismissed by the mir of Gorno-Badakhshan Autonomous Oblast by consent of the Minister of Justice.

The law determines the structure and activity of the court.

ARTICLE 84. The term of authority of the judges of the Constitutional Court, Supreme Court and Supreme Economic Court is 10 years.

The term of authority of the judges of the courts in Gorno Badakhshan Autonomous Oblast, oblasts, the city of Dushanbe, towns and rayons is five years.

ARTICLE 85. Judges are independent and are subordinate only to the Constitution and law. Interference in the activity is not permitted.

ARTICLE 86. Judges consider cases collectively or individually.

Court proceedings are carried out on the basis of an adversarial system and the equal rights of the parties.

The examination of cases in all courts is open, except those cases stipulated in law.

Court proceedings will take place in the state language or the language of the majority population of the place.

People who do not know the language of the court proceedings will be provided with translators.

ARTICLE 87. The Constitutional Court consists of seven judges.

Citizens who have reached the age of 30 and who are no older than 60 may be judges of the Constitutional Court.

The judges of the Constitutional Court will be elected from lawyers who have more than 10 years' experience in the legal profession.

The powers of the Constitutional Court:

1. To determine the conformity with the Constitution, laws and

legal documents of Majlisi Mili, the President, Supreme Court, Supreme Economic Court and other state and social authorities and agreements which have not entered into force in the Republic of Tajikistan;

2. To resolve disputes between state power and authorities;

3. Application to the session of Majlisi Mili related to charges against the president of treason and breaking the oath;

4. Implementation of other duties stipulated by law.

Those documents that are considered contradictory to the Constitution by the Constitutional Court will be invalidated.

The decision of the Constitutional Court which has been adopted within the framework of its authorities is final.

ARTICLE 88. Judges cannot perform other duties, except scientific, teaching and creative work. Judges cannot be deputies of representative authorities, members of parties and political organizations and cannot engage in entrepreneurship.

ARTICLE 89. Judges enjoy immunity. A judge may not be subjected to arrest and criminal proceedings without the permission of that authority which has elected him. A judge may not be arrested except while committing a crime.

ARTICLE 90. Legal assistance is recognized in all stages of the court proceedings.

CHAPTER EIGHT

PROCURATOR'S OFFICE

ARTICLE 91. The procurator-general and procurators who are subordinate to him ensure the thorough control and observance of laws within the framework of their authority.

ARTICLE 92. The procurator-general heads a single centralized system of the Procurator's Office of Tajikistan. The prosecutor-general is responsible to Majlisi Mali.

ARTICLE 93. The procurator-general of Tajikistan would be elected for a term of five years .

The procurator-general appoints and removes from office those procurators who are subordinate to him. The term of authority of procurators is five years.

The law regulates activity, authority and structure of the Procurator's Office.

ARTICLE 94. The procurator is functioning independently without interference from the state bodies and officials and only subordinated to law.

ARTICLE 95. The prosecutor may not perform other duties except scientific , teaching and creative work.

The procurator may not be a deputy of representative

authorities, members of parties, political organizations and to engage in entrepreneurship.

CHAPTER NINE

STATE OF EMERGENCY

ARTICLE 96. A state of emergency is declared as a temporary measure to ensure the citizen's and state's security in the instances of direct threat to the rights and freedoms of citizens, state's independence, its territorial integrity and natural disasters as a result of which the constitutional authorities of the republic are unable to act normally.

The period of the state of emergency is three months. The president could prolong this period in necessary circumstances. He immediately submits the decree to Majlisi Mili for approval.

ARTICLE 97. During the state of emergency the rights and freedoms stipulated in Article 17, 18, 19, 20, 21, 22, 24, 27 and 31 of the Constitution would not be limited.

The president informs the United Nations Organization about the declaration of state of emergency and its duration.

The law determines the legal regime of state of emergency.

CHAPTER TEN

PROCEDURE OF INTRODUCING AMENDMENTS TO THE CONSTITUTION

ARTICLE 98. Amendments and addenda to the Constitution take place by means of referendum.

The referendum would take place by the support of two-thirds of the people's deputies.

The procedure of referendum would be determined by law.

ARTICLE 99. The president or at least one-third of people's deputies of Tajikistan submit addenda and amendments to the Constitution.

Proposals related to addenda and amendments to the Constitution would be published in press three months before the referendum.

ARTICLE 100. The form of republic's administration, territorial integrity, democratic, law-based and secular nature of the state are irrevocable.

The following group of people have prepared the draft Constitution of the Republic of Tajikistan:

Dostiyev, first deputy chairman of Majlisi Mili of the Republic of Tajikistan, head of the group and members of the working group.